

June 30, 2023

**VIA ELECTRONIC AND REGULAR MAIL**

Access Dental Plan  
Matthew Oswald, CFO  
8890 Cal Center Drive  
Sacramento, CA 95826

**RE: NOTICE OF PLAN DEFICIENCY (NON-COMPLIANCE) WITH  
CONTRACTUAL REQUIREMENTS AND DEMAND FOR CORRECTIVE  
ACTION PLAN (CAP)**

Dear Mr. Oswald,

The Department of Health Care Services (DHCS) is hereby providing Access Dental Plan (ADP or "Contractor") this Notice of Plan Deficiency (Non-Compliance) with Contractual Requirements, pursuant to Dental All Plan Letter (APL) 13-004, APL 15-007, APL 18-001, and Exhibit A, Attachment 4, Provision B, and Exhibit A, Attachment 5, Provision N, and hereby requires a Corrective Action Plan (CAP) within 30 days from the date of the electronic mail postmark of this letter.

Please note, if Contractor is unable to correct the noted deficiencies and/or complete their CAP, DHCS may exercise its right to pursue additional sanctions in accordance with Provision 3, Termination, Provision 18, Sanctions or Provision 19, Liquid Damages Provision in Exhibit E, Additional Provisions, of the Contract.

**Summary of Non-Performance**

Pursuant to dental APL 13-004, APL 15-007, APL 18-011 and Exhibit A, Attachment 4, Provision B, DHCS received ADP's October 2022 Encounter Data Submission deliverable on November 10, 2022. On November 22, 2022, DHCS requested ADP to self-report an explanation for the 134 rejected transactions. On December 9, 2022, ADP responded, *"Each of the 134 October denials are for duplicate encounters. ADP will void encounters as appropriate and resubmit as a new encounter on future files."*

On December 15, 2022, ADP submitted the November 2022 Encounter Data Report with 151 unresolved rejected transactions with a self-report: *"The 2 files submitted on November 11th had every encounter within the files rejected (2904 records) due to a vendor update. We attempted to submit the corrected encounters by sending as adjustments on 11/17/22, however they were rejected again because of the mismatched claim identifier and Health Plan Code. Therefore we voided and resubmitted as new originals with the corrected details prior to the end of November. We currently have 151*

*rejections still to resolve for November submitted encounters. These are mostly duplicates which will be voided and resubmitted to resolve in the next few weeks".* On December 20, 2022, DHCS approved ADP's November 2022 Encounter Data Report deliverable, and requested that ADP include a self-report on the pending 151 rejected files with the December 2022 Encounter Data Report.

On January 13, 2023, ADP submitted December 2022 Encounter Data Report with 151 unresolved duplicate transactions with the Self-Report: *"We are working on resolving the 151 duplicates from November and should have them all resubmitted before the end of January."*

On February 22, 2023, ADP sent an email to DHCS, *"As we move forward with migration to a new MIS system, we are analyzing the processes used to build the encounter files that are sent to DHCS...we have identified that somewhere between **15% - 20% of our claims have not been sent on encounter files to DHCS for 2022**....By not including these claims in our encounter files, we are 1) underreporting utilization data to DHCS and 2) not identifying claims for correction and submission."* (Emphasis Added).

On February 22, 2023, ADP sent another email to DHCS, and acknowledged that *"we are required to submit data completely and accurately per our contract,"* and requested an extension. Subsequently that day, DHCS replied that *"there is no additional time that can be extended on this request, the data is considered overdue,"* and notified ADP that a notice which would necessitate a Corrective Action Plan (CAP) would be issued.

On February 28, 2023, ADP sent an email to DHCS stating, *"When evaluating ADP raw data, utilization numbers climb to 35%+; we are still investigating why all the raw data is not reflected on the encounters."*

On March 24, 2023, ADP emailed DHCS, *"As discussed with DHCS, ADP will transition to a new operating system to improve all functions, including claims submission, claims processing, encounter submission and encounter acceptance rates. This investment into a new system will enable us to provide higher processing speed and more granular reporting. The migration is currently slated for Q3 2023."*

On May 24, ADP emailed DHCS:

*"...Our encounter team has reviewed the receipts for the March 17<sup>th</sup> and 29<sup>th</sup> encounter acceptance.*

- *After voiding the duplicate rejections, the acceptance rate for encounters submitted March 17<sup>th</sup> & 29<sup>th</sup> = 91.5%*

*'The ADP EDSRF reports show the following acceptance rates:*

- April 97%
- May 96%

*ADP recognizes the encounter receipts will typically not reflect 100% acceptance. Only accepted encounters were included in the utilization analysis & data shared with DHCS via email 5/19/2023."*

On June 15, 2023, ADP submitted the May 2023 Encounter Data deliverable wherein there were 490 denied encounters. On June 20, 2023 DHCS asked ADP to please explain why there were 490 denied encounters.

As of today's date, ADP has not complied with the contractual requirements.

#### Applicable Contractual Authority

The Contract between Contractor and DHCS, Exhibit A, Attachment 4, Provision B, Encounter Data states as follows:

*"Contractor shall implement policies and procedures for ensuring the complete, accurate, and timely submission of encounter data for all services for which Contractor has incurred any financial liability, whether directly or through subcontracts or other arrangements. Encounter data shall include data elements specified in DHCS' latest version of the Managed Care Plans, Encounter Data Element Dictionary and All Plan Letters (APL) related to encounter data reporting for Medi-Cal Dental Managed Care Plan contractors in the form and manner prescribed in 42 CFR § 438.818. The contractor shall submit encounter data to the state in standardized Accredited Standards Committee (ASC) X12N 837 and National Council for Prescription Drug Programs (NCPDP) formats, and the ASC X12N 835 format as appropriate.*

*Contractor shall require subcontractors and non-contracting Providers to provide encounter data to Contractor, which allows the Contractor to meet its administrative functions and the requirements set forth in this section. Contractor shall have in place mechanisms, including edits and reporting systems sufficient to assure encounter data is complete, accurate, and certified by the CEO or CFO prior to submission to DHCS according to Exhibit E, Section 12, Data Certifications. Contractor shall submit encounter data to DHCS on a monthly basis in the form and manner specified in DHCS' most recent Managed Care Plans, Data Element Dictionary.*

*Upon written notice by DHCS that the encounter data is insufficient or inaccurate, Contractor shall ensure that corrected data is resubmitted within fifteen (15) calendar days of receipt of DHCS' notice. Upon Contractor's written request, DHCS may provide a written extension for submission of corrected encounter data to be captured in the following month's production run.*

*If encounter data is not submitted within fifteen (15) calendar days of receipt of DHCS' notice and an approved extension was not attained, DHCS will notify the Contractor in writing of their violation of contract terms and reserves the right to suspend all new enrollments."*

The Contract between Contractor and DHCS, Exhibit A, Attachment 5, Provision N, Evaluation of Contractor Compliance/Corrective Action Plan (CAP) provides as follows:

*"DHCS will evaluate Contractor's overall compliance with contract requirements monthly. Contractor shall ensure that a corrective action plan is developed to correct cited deficiencies and that*

*corrections are completed and verified within the established guidelines as specified in the dental managed care All Plan Letter to be executed at contract effective date. If Contractor fails to correct cited deficiencies as specified in the All Plan Letter, then the DHCS reserves the right to halt all new enrollment to the plan until such time as the deficiencies have been corrected and approved by the Department."*

DHCS Dental APL 13-004 provides, in part, as follows:

"DMC Plans may be required to develop a Corrective Action Plan (CAP) for any deficiencies revealed by DHCS' analysis and evaluation of DMC Plans' overall compliance with contract requirements. DHCS will send written notification of the deficiencies to the DMC Plan that is required to submit a CAP. From the date of the notice, the CAP must be submitted within 30 (thirty) calendar days to DHCS. DHCS will then review and provide feedback to the DMC Plan. The length of time that the DMC Plan will have to complete the CAP will depend on the deficiencies and the steps involved in the CAP. DHCS will closely oversee the DMC Plan's actions to correct the deficiency and will assist where necessary in order to ensure the CAP is completed. DHCS reserves the right to exercise Provision 3, Termination, Provision 18, Sanctions or Provision 19, Liquid Damages Provisions in Exhibit E, Additional Provisions, of the GMC contract if a DMC Plan is unable to correct a deficiency and/or complete their CAP."

DHCS Dental APL 15-007 provides, in part, as follows:

*"DHCS is mandated to collect and report on claims paid under Denti-Cal Fee-For-Service, and managed care encounters reported by contracted DMC plans. Transition to PACES must be completed by Friday, June 12, 2015 and submission to the current legacy system will no longer be permitted thereafter."*

DHCS Dental APL 18-011 states as follows:

*"Effective June 12, 2015, DHCS transitioned its encounter data reporting for all DMC plans to the Post-Adjudicated Claims and Encounters System (PACES), a national standard file format for encounter data submissions. DMC plans have been required to comply with the new DHCS encounter data reporting requirements when submitting encounter data as specified in DHCS Contract, Exhibit A, Attachment 4.B and DMC APL 15-007. In addition, Title 42 CFR §438.242(d)(2) requires DHCS to have procedures and quality assurance protocols to ensure that member encounter data submitted by DMC plans represents a complete and accurate representation of the services provided."*

#### Resultant Action

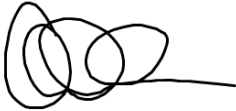
DHCS is hereby providing this Notice of Deficiency (Non-Compliance) with Contractual Requirements and hereby requires a CAP within 30 days from the date of the electronic mail postmark of this letter. Please provide DHCS proof of submission of full and complete encounter data for November 2022, December 2022, March 2023, April 2023, and May 2023 encounter data.

Please note, if Contractor is unable to correct the noted deficiencies and/or complete their CAP, DHCS may exercise its right to pursue additional sanctions in accordance with Provision 3, Termination, Provision 18, Sanctions or Provision 19, Liquid Damages Provision in Exhibit E, Additional Provisions, of the Contract.

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Should you have any questions, please contact me regarding the aforementioned.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a trailing line.

Adrianna Alcala-Beshara, JD, MBA  
Chief, Medi-Cal Dental Services Division  
Department of Health Care Services